

ASSEMBLY BILL

No. 2526

Introduced by Assembly Member Dickerson

February 21, 2002

An act to amend Sections 1203, 1203a, 1203b, 1203h, 1203.05, 1203.1f, 1203.1h, 1203.7, and 1203.72 of, and to repeal Sections 1203d, 1203.10, and 1203.12 of, the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

AB 2526, as introduced, Dickerson. Crimes.

(1) Existing law defines “conditional sentence” as the suspension of the imposition of a sentence and the order of revocable release in the community subject to conditions established by the court without the supervision of a probation officer.

This bill would change this term to “informal probation.”

(2) Existing law generally requires, if a person is convicted of a felony and is eligible for probation, that the court immediately refer the matter to a probation officer to investigate and report to the court, at a specified time, upon the circumstance surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. Existing law also requires that the report include the probation officer’s recommendation with respect to the payment of restitution.

This bill would instead require, if a person is convicted of a felony and is not excluded from probation pursuant to specified provisions, that the court refer the matter to a probation officer to report on factors set forth in specified provisions and would also require the probation officer to report specified recommendations on probation and restitution. This bill would make other conforming changes with

respect to provisions relating to the probation report and the imposition of probation and restitution.

(3) Under existing law, a judge is authorized with respect to misdemeanor cases, to suspend the imposition or the execution of the sentence, and to make and enforce the terms of probation for a period not to exceed 3 years, provided that when the maximum sentence provided by law exceeds 3 years imprisonment, the period during which sentence may be suspended and terms of probation enforced may be for a longer period than 3 years, but not to exceed the maximum time for which sentence of imprisonment might be pronounced.

This bill would instead authorize a judge in misdemeanor cases to order probation consistent with existing law for felonies, which permit probation to be for 5 years or the maximum sentence, whichever is greater.

(4) Existing law authorizes specified people to inspect any report of the probation officer filed with the court, including the district attorney.

This bill would include any district attorney within that authorization.

(5) Existing law authorizes the court to require a defendant to pay the cost of any medical examinations conducted on the victim for the collection and preservation of evidence.

This bill would also authorize the court to order that the defendant pay medical costs for himself or herself.

(6) Existing law requires the probation officer of the county, either at the time of arrest or at the time of the plea or verdict of guilty, to inquire and report on specified information. Existing law requires that this report be at all times open to the inspection of the court or other specified people. Existing law requires the probation officer to report a probation violation to the court or judge appointing him or her.

This bill would make various technical, nonsubstantive changes. This bill would include commissioners, the sheriff of the county, a law enforcement agency, and any district attorney among those who are able to inspect the report. This bill would also require that the probation officer report a probation violation to the district attorney of the county having jurisdiction over the case. The bill would make other conforming changes. Because this bill increases the duties on local officials, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that



reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1203 of the Penal Code is amended to
2 read:
3 1203. (a) As used in this code, “probation” means the
4 suspension of the imposition or execution of a sentence and the
5 order of conditional and revocable release in the community under
6 the supervision of a probation officer. As used in this code,
7 ~~“conditional sentence”~~ *“informal probation”* means the
8 suspension of the imposition or execution of a sentence and the
9 order of revocable release in the community subject to conditions
10 established by the court without the supervision of a probation
11 officer. It is the intent of the Legislature that both ~~conditional~~
12 ~~sentence~~ *informal probation* and probation are authorized
13 whenever probation is authorized in any code as a sentencing
14 option for infractions or misdemeanors.
15 (b) (1) Except as provided in subdivision ~~(i)~~ (i), if a person is
16 convicted of a felony and is ~~eligible for probation~~ *not excluded*
17 *from probation pursuant to subdivision (j) of this section,*
18 *subdivision (b) of Section 1203.044, subdivision (a) of Section*
19 *1203.06, subdivision (a) of Section 1203.065, subdivision (a) of*
20 *Section 123.066, subdivision (a) of Section 1203.07, subdivision*
21 *(a) of Section 1203.075, Sections 1203.08 and 1203.085, or*
22 *subdivision (a) of Section 1203.09, before judgment is*
23 *pronounced, the court shall immediately refer the matter to a*
24 *probation officer to investigate and report to the court, at a*
25 ~~*specified the time specified by Section 1191, upon the*~~
26 ~~*circumstances surrounding the crime and the prior history and*~~
27 ~~*record of the person, which may be considered either in*~~

1 ~~aggravation or mitigation of the punishment on those factors set~~
2 ~~forth in subdivision (e) of this section, subdivision (b) of Section~~
3 ~~1202.4, subdivision (c) or (d) of Section 1203.044, subdivision (a)~~
4 ~~of Section 1203.045, subdivision (a) of Section 1203.046, Section~~
5 ~~1203.047, subdivision (a) of Section 1203.048, subdivision (a) of~~
6 ~~Section 1203.049, subdivision (b) of Section 1203.065,~~
7 ~~subdivision (c) of Section 1203.066, Sections 1203.067, 1203.073,~~
8 ~~1203.074, and 1203.076, subdivision (f) of Section 1203.09, and~~
9 ~~Sections 1203.095, 1203.097, 1203h, 1203.02, 1203.1, 1203.1ab,~~
10 ~~1203.1abc, 1203.1b, 1203.1c, 1203.1g, 1203.1h, 1203.1i, 1203.1j,~~
11 ~~1203.1(l), and 1203.7, and any other facts contained in any law~~
12 ~~enforcement report that directly or indirectly relates to the factual~~
13 ~~basis of defendant's plea, including any admission or waiver under~~
14 ~~Section 1192.3.~~

15 (2) (A) The probation officer shall immediately investigate
16 and make a written report to the court of his or her findings and
17 recommendations, including his or her recommendations as to ~~the~~
18 ~~granting or denying of probation and the conditions of probation,~~
19 ~~if granted the following:~~

- 20 (i) *The granting or denying of probation.*
21 (ii) *The conditions, if granted probation.*
22 (iii) *The amount the defendant should be required to pay as a*
23 *restitution fine pursuant to subdivision (b) of Section 1202.4.*
24 (iv) *Whether the court shall require, as a condition of*
25 *probation, restitution to the victim or to the Restitution Fund and*
26 *the amount thereof.*

27 (B) Pursuant to Section 828 of the Welfare and Institutions
28 Code, the probation officer shall include in his or her report any
29 information gathered by a law enforcement agency relating to the
30 taking of the defendant into custody as a minor, which shall be
31 considered for purposes of determining whether adjudications of
32 commissions of crimes as a juvenile warrant a finding that there
33 are circumstances in aggravation pursuant to Section 1170 or to
34 deny probation.

35 (C) ~~The probation officer shall also include in the report his or~~
36 ~~her recommendation of both of the following:~~

- 37 ~~(i) The amount the defendant should be required to pay as a~~
38 ~~restitution fine pursuant to subdivision (b) of Section 1202.4.~~

1 ~~(ii) Whether the court shall require, as a condition of probation,~~
2 ~~restitution to the victim or to the Restitution Fund and the amount~~
3 ~~thereof.~~

4 ~~(D) The report shall be made available to the court and the~~
5 ~~prosecuting and defense attorneys at least five days, or upon~~
6 ~~request of the defendant or prosecuting attorney, nine days prior~~
7 ~~to the time fixed by the court for the hearing and determination of~~
8 ~~the report, and shall be filed with the clerk of the court as a record~~
9 ~~in the case at the time of the hearing. The time within which the~~
10 ~~report shall be made available and filed may be waived by written~~
11 ~~stipulation of the prosecuting and defense attorneys that is filed~~
12 ~~with the court or an oral stipulation in open court that is made and~~
13 ~~entered upon the minutes of the court. Unless otherwise directed~~
14 ~~by the court, the probation officer shall also include in his or her~~
15 ~~report a statement of the comments of the victim concerning any~~
16 ~~offense for which the report is being prepared.~~

17 (3) At a time fixed by the court, the court shall hear and
18 determine the application, if one has been made, or, in any case,
19 the suitability of probation in the particular case. At the hearing,
20 the court shall consider any report of the probation officer and shall
21 make a statement that it has considered the report which shall be
22 filed with the clerk of the court as a record in the case. If the court
23 determines that there are circumstances in mitigation of the
24 punishment prescribed by law or that the ends of justice would be
25 served by granting probation to the person, it may place the person
26 on probation. If probation is denied, the clerk of the court shall
27 immediately send a copy of the report to the Department of
28 Corrections at the prison or other institution to which the person
29 is delivered.

30 (4) The preparation of the report or the consideration of the
31 report by the court may be waived only by a written stipulation of
32 the prosecuting and defense attorneys that is filed with the court
33 or an oral stipulation in open court that is made and entered upon
34 the minutes of the court, except that there shall be no waiver unless
35 the court consents thereto. However, if the defendant is ultimately
36 sentenced and committed to the state prison, a probation report
37 shall be completed pursuant to Section 1203c.

38 (c) If a defendant is not represented by an attorney, the court,
39 upon ordering the probation report pursuant to subdivision (b) or
40 (d) of this section, or subdivision (a) of Section 1203.7, shall order

1 the probation officer who ~~makes~~ *prepares* the probation report to
2 discuss its contents with the defendant.

3 (d) If a person is convicted of a misdemeanor, the court may
4 either refer the matter to the probation officer for an investigation
5 and a report or summarily pronounce a ~~conditional judgment and~~
6 sentence. If the ~~case~~ *matter* is not referred to the probation officer,
7 in sentencing the person, the court may consider any information
8 concerning the person that could have been included in a probation
9 report. The court shall inform the person of the information to be
10 considered and permit him or her to answer or controvert the
11 information. For this purpose, upon the request of the person, the
12 court shall grant a continuance before the judgment is pronounced.

13 (e) Except in unusual cases where the interests of justice would
14 best be served if the person is granted probation, probation shall
15 not be granted to any of the following persons:

16 (1) Unless the person had a lawful right to carry a deadly
17 weapon, other than a firearm, at the time of the perpetration of the
18 crime or his or her arrest, any person who has been convicted of
19 arson, robbery, carjacking, burglary, burglary with explosives,
20 rape with force or violence, torture, aggravated mayhem, murder,
21 attempt to commit murder, trainwrecking, kidnapping, escape
22 from the state prison, or a conspiracy to commit one or more of
23 those crimes and who was armed with the weapon at either of those
24 times.

25 (2) Any person who used, or attempted to use, a deadly weapon
26 upon a human being in connection with the perpetration of the
27 crime of which he or she has been convicted.

28 (3) Any person who willfully inflicted great bodily injury or
29 torture in the perpetration of the crime of which he or she has been
30 convicted.

31 (4) Any person who has been previously convicted twice in this
32 state of a felony or in any other place of a public offense which,
33 if committed in this state, would have been punishable as a felony.

34 (5) Unless the person has never been previously convicted once
35 in this state of a felony or in any other place of a public offense
36 which, if committed in this state, would have been punishable as
37 a felony, any person who has been convicted of burglary with
38 explosives, rape with force or violence, torture, aggravated
39 mayhem, murder, attempt to commit murder, trainwrecking,
40 extortion, kidnapping, escape from the state prison, a violation of

1 Section 286, 288, 288a, or 288.5, or a conspiracy to commit one
2 or more of those crimes.

3 (6) Any person who has been previously convicted once in this
4 state of a felony or in any other place of a public offense which,
5 if committed in this state, would have been punishable as a felony,
6 if he or she committed any of the following acts:

7 (A) Unless the person had a lawful right to carry a deadly
8 weapon at the time of the perpetration of the previous crime or his
9 or her arrest for the previous crime, he or she was armed with a
10 weapon at either of those times.

11 (B) The person used, or attempted to use, a deadly weapon
12 upon a human being in connection with the perpetration of the
13 previous crime.

14 (C) The person willfully inflicted great bodily injury or torture
15 in the perpetration of the previous crime.

16 (7) Any public official or peace officer of this state or any city,
17 county, or other political subdivision who, in the discharge of the
18 duties of his or her public office or employment, accepted or gave
19 or offered to accept or give any bribe, embezzled public money, or
20 was guilty of extortion.

21 (8) Any person who knowingly furnishes or gives away
22 phencyclidine.

23 (9) Any person who intentionally inflicted great bodily injury
24 in the commission of arson under subdivision (a) of Section 451
25 or who intentionally set fire to, burned, or caused the burning of,
26 an inhabited structure or inhabited property in violation of
27 subdivision (b) of Section 451.

28 (10) Any person who, in the commission of a felony, inflicts
29 great bodily injury or causes the death of a human being by the
30 discharge of a firearm from or at an occupied motor vehicle
31 proceeding on a public street or highway.

32 (11) Any person who possesses a short-barreled rifle or a
33 short-barreled shotgun under Section 12020, a machine gun under
34 Section 12220, or a silencer under Section 12520.

35 (12) Any person who is convicted of violating Section 8101 of
36 the Welfare and Institutions Code.

37 (13) Any person who is described in paragraph (2) or (3) of
38 subdivision (g) of Section 12072.

39 (f) When probation is granted in a case which comes within
40 subdivision (e), the court shall specify on the record and shall enter

1 on the minutes the circumstances indicating that the interests of
2 justice would best be served by that disposition.

3 (g) ~~If Unless a report has been waived pursuant to paragraph~~
4 ~~(4) of subdivision (b), if a person is not eligible for probation, the~~
5 ~~judge shall may refer the matter to the probation officer for an~~
6 ~~investigation of the facts relevant to determination of determine~~
7 ~~the amount of a restitution fine pursuant to subdivision (b) of~~
8 ~~Section 1202.4 in all cases where the determination is applicable.~~
9 ~~The judge, in his or her discretion, may direct the probation officer~~
10 ~~to investigate all facts relevant to the sentencing of the person.~~
11 ~~Upon that referral, the probation officer shall immediately~~
12 ~~investigate the circumstances surrounding the crime and the prior~~
13 ~~record and history of the person and make a written report to the~~
14 ~~court of his or her findings. The findings shall include a~~
15 ~~recommendation of the amount of the restitution fine as provided~~
16 ~~in subdivision (b) of Section 1202.4.~~

17 (h) ~~If a defendant is convicted of a felony and a probation report~~
18 ~~is prepared pursuant to subdivision (b) or (g), the probation officer~~
19 ~~may obtain and include in the report a statement of the comments~~
20 ~~of the victim concerning the offense. The court may direct the~~
21 ~~probation officer not to obtain a statement if the victim has in fact~~
22 ~~testified at any of the court proceedings concerning the offense. No~~
23 ~~probationer shall be released to enter another state unless his or her~~
24 ~~case has been referred to the Administrator of the Interstate~~
25 ~~Probation and Parole Compacts, pursuant to the Uniform Act for~~
26 ~~Out-of-State Probationer or Parolee Supervision (Article 3~~
27 ~~commencing with Section 11175) of Chapter 2 of Title 1 of Part~~
28 ~~4) and the probationer has reimbursed the county that has~~
29 ~~jurisdiction over his or her probation case the reasonable costs of~~
30 ~~processing his or her request for interstate compact supervision.~~
31 ~~The amount and method of reimbursement shall be in accordance~~
32 ~~with Section 1203.1b.~~

33 ~~(j)~~

34 (i) In any court where a county financial evaluation officer is
35 available, in addition to referring the matter to the probation
36 officer, the court may order the defendant to appear before the
37 county financial evaluation officer for a financial evaluation of the
38 defendant's ability to pay restitution, in which case the county
39 financial evaluation officer shall report his or her findings

1 regarding restitution and other court-related costs to the probation
2 officer on the question of the defendant's ability to pay those costs.

3 Any order made pursuant to this subdivision may be enforced
4 as a violation of the terms and conditions of probation upon willful
5 failure to pay and at the discretion of the court, may be enforced
6 in the same manner as a judgment in a civil action, if any balance
7 remains unpaid at the end of the defendant's probationary period.

8 ~~(k)~~

9 (j) Probation shall not be granted to, nor shall the execution of,
10 or imposition of sentence be suspended for, any person who is
11 convicted of a violent felony, as defined in subdivision (c) of
12 Section 667.5, or a serious felony, as defined in subdivision (c) of
13 Section 1192.7, and who was on probation for a felony offense at
14 the time of the commission of the new felony offense.

15 SEC. 2. Section 1203a of the Penal Code is amended to read:

16 1203a. In all counties and cities and counties the courts
17 therein, having jurisdiction to impose punishment in misdemeanor
18 cases, shall have the power to refer cases, demand reports and to
19 do and require all things necessary to carry out the purposes of
20 Section 1203 of this code insofar as they are in their nature
21 applicable to misdemeanors. Any ~~such~~ court shall have power to
22 suspend the ~~imposing~~ *imposition* or the execution of the sentence,
23 and to make and enforce the terms of probation for a period ~~not to~~
24 ~~exceed three years; provided, that when the maximum sentence~~
25 ~~provided by law exceeds three years imprisonment, the period~~
26 ~~during which sentence may be suspended and terms of probation~~
27 ~~enforced may be for a longer period than three years, but in such~~
28 ~~instance, not to exceed the maximum time for which sentence of~~
29 ~~imprisonment might be pronounced determined pursuant to~~
30 ~~subdivision (a) of Section 1203.1.~~

31 SEC. 3. Section 1203b of the Penal Code is amended to read:

32 1203b. All courts shall have power to suspend the imposition
33 or execution of a sentence and grant ~~a conditional sentence an~~
34 ~~informal probation~~ in misdemeanor and infraction cases without
35 referring ~~such~~ *those* cases to the probation officer. Unless
36 otherwise ordered by the court, persons granted ~~a conditional~~
37 ~~sentence in the community an informal probation~~ shall report only
38 to the court and the probation officer shall not be responsible in any
39 way for supervising or accounting for ~~such~~ *those* persons.

40 SEC. 4. Section 1203d of the Penal Code is repealed.

~~1203d. No court shall pronounce judgment upon any defendant, as to whom the court has requested a probation report pursuant to Section 1203.10, unless a copy of the probation report has been made available to the court, the prosecuting attorney, and the defendant or his or her attorney, at least two days or, upon the request of the defendant, five days prior to the time fixed by the court for consideration of the report with respect to pronouncement of judgment. The report shall be filed with the clerk of the court as a record in the case at the time the court considers the report.~~

~~If the defendant is not represented by an attorney, the court, upon ordering the probation report, shall also order the probation officer who prepares the report to discuss its contents with the defendant. Any waiver of the preparation of the report or the consideration of the report by the court shall be as provided in subdivision (b) of Section 1203, with respect to cases to which that subdivision applies.~~

~~The sentence recommendations of the report shall also be made available to the victim of the crime, or the victim's next of kin if the victim has died, through the district attorney's office. The victim or the victim's next of kin shall be informed of the availability of this information through the notice provided pursuant to Section 1191.1.~~

SEC. 5. Section 1203h of the Penal Code is amended to read:

1203h. If the court initiates an investigation pursuant to subdivision ~~(a)~~ (b) or (d) of Section 1203 and the convicted person was convicted of violating any section of this code in which a minor is a victim of an act of abuse or neglect, then the investigation may include a psychological evaluation to determine the extent of counseling necessary for successful rehabilitation and which may be mandated by the court during the term of probation. Such evaluation may be performed by psychiatrists, psychologists, or licensed clinical social workers. The results of the examination shall be included in the probation officer's report to the court.

SEC. 6. Section 1203.05 of the Penal Code is amended to read:

1203.05. Any report of the probation officer filed with the court, including any report arising out of a previous arrest *or*

1 *conviction* of the person who is the subject of the report, may be
2 inspected or copied only as follows:

3 (a) By any person, from the date judgment is pronounced or
4 probation granted or, in the case of a report arising out of a previous
5 arrest, from the date the subsequent accusatory pleading is filed,
6 to and including 60 days from the date judgment is pronounced or
7 probation is granted, whichever is earlier.

8 (b) By any person, at any time, by order of the court, upon filing
9 a petition therefor by the person.

10 (c) By the general public, if the court upon its own motion
11 orders that a report or reports shall be open or that the contents of
12 the report or reports shall be disclosed.

13 (d) By any person authorized or required by law to inspect or
14 receive copies of the report.

15 (e) By the district attorney of ~~the~~ any county at any time.

16 (f) By the subject of the report at any time.

17 SEC. 7. Section 1203.1f of the Penal Code is amended to read:

18 1203.1f. If practicable, the court shall consolidate the ability
19 to pay determination hearings authorized pursuant to Sections
20 987.8, 1203.1b, 1203.1c, 1203.1e, *1203.1h*, *1203.1l*, and 1203.1m
21 into one proceeding, and the determination of ability to pay made
22 at the consolidated hearing may be used for all purposes relating
23 to these listed sections.

24 ~~This section shall become operative on January 1, 1995.~~

25 SEC. 8. Section 1203.1h of the Penal Code is amended to
26 read:

27 1203.1h. (a) In addition to any other costs which a court is
28 authorized to require a defendant to pay, upon conviction of any
29 offense involving child abuse or neglect, the court may require that
30 the defendant pay to a law enforcement agency incurring the cost,
31 the cost of any medical examinations conducted on the victim in
32 order to determine the nature or extent of the abuse or neglect. If
33 the court determines that the defendant has the ability to pay all or
34 part of the medical examination costs, the court may set the amount
35 to be reimbursed and order the defendant to pay that sum to the law
36 enforcement agency in the manner in which the court believes
37 reasonable and compatible with the defendant's financial ability.
38 In making a determination of whether a defendant has the ability
39 to pay, the court shall take into account the amount of any fine

1 imposed upon the defendant and any amount the defendant has
2 been ordered to pay in restitution.

3 (b) In addition to any other costs which a court is authorized to
4 require a defendant to pay, upon conviction of any offense
5 involving sexual assault or attempted sexual assault, including
6 child molestation, the court may require that the defendant pay, to
7 the law enforcement agency, county, or local governmental agency
8 incurring the cost, the cost of any medical examinations conducted
9 on the victim *or the defendant* for the collection and preservation
10 of evidence. ~~If~~

11 (c) *If* the court determines that the defendant has the ability to
12 pay all or part of the cost of the medical examination, the court may
13 set the amount to be reimbursed and order the defendant to pay that
14 sum to the law enforcement agency, county, or local governmental
15 agency, in the manner in which the court believes reasonable and
16 compatible with the defendant's financial ability. ~~If~~

17 (d) *In* making the determination of whether a defendant has the
18 ability to pay, the court shall take into account the amount of any
19 fine imposed upon the defendant and any amount the defendant
20 has been ordered to pay in restitution. In no event shall a court
21 penalize an indigent defendant by imposing an additional period
22 of imprisonment in lieu of payment.

23 SEC. 9. Section 1203.7 of the Penal Code is amended to read:

24 1203.7. (a) Either at the time of the arrest for a crime of any
25 person over 16 years of age, or at the time of the plea or verdict of
26 guilty, the probation officer of the county of the jurisdiction of the
27 crime shall, when so directed by the court, ~~inquire~~ *conduct an*
28 *investigation pursuant to subdivision (b) or (d) of Section 1203,*
29 *including, but not limited to, an inquiry* into the antecedents,
30 character, history, *and* family environment and offense of that
31 person, and ~~must~~ *shall file a written report the same to with the*
32 *court and file a report in writing in the records of the court. The*
33 ~~report shall contain his or her recommendation for or against the~~
34 ~~release of the person on probation. If~~

35 (b) *If* that person is released on probation and committed to the
36 care of the probation officer, the officer shall keep a complete and
37 accurate record in suitable books of the history of the case in court
38 and of the name of the probation officer, and his or her acts in
39 connection with the case; also the age, sex, nativity, residence,
40 education, habits of temperance, ~~whether married or single~~ *marital*

1 *status*, and the conduct, employment and occupation and the
 2 parents' occupation and the condition of the person committed to
 3 his or her care during the term of probation, and the result of
 4 probation, which record shall be and constitute a part of the records
 5 of the court and shall at all times be open to the inspection of the
 6 court or any person appointed by the court for that purpose, as well
 7 as of all magistrates *and commissioners* and the *sheriff of the*
 8 *county*, chief of police or other head of ~~the police, unless otherwise~~
 9 ~~ordered by the court. Those books of record shall be furnished by~~
 10 ~~the county clerk, and shall be paid for out of the county treasury~~
 11 ~~a law enforcement agency in the county, and any district attorney.~~

12 (c) Five years after termination of probation in any case subject
 13 to this section, the probation officer may destroy any records and
 14 papers in his or her possession relating to the case.

15 (d) The probation officer shall furnish to each person released
 16 on probation and committed to his or her care, a written statement
 17 of the terms and conditions of probation, and shall report to the
 18 court or judge appointing him or her, *and to the district attorney*
 19 *of the county having jurisdiction over the case*, any violation or
 20 breach of the terms and conditions imposed by the court on the
 21 person placed in his or her care.

22 SEC. 10. Section 1203.72 of the Penal Code is amended to
 23 read:

24 1203.72. No court shall pronounce judgment upon any
 25 defendant, as to whom the court has requested a probation report
 26 pursuant to *subdivision (b) or (d) of Section 1203, or subdivision*
 27 *(a) of Section 1203.7*, unless a copy of the *written* probation report
 28 has been made available to the court, the prosecuting attorney, and
 29 the defendant or his or her attorney, at least two days, or, upon the
 30 request of the defendant *or the prosecutor*, five days, prior to the
 31 time fixed by the court for consideration of the report with respect
 32 to pronouncement of judgment. The report shall be filed with the
 33 clerk of the court as a record in the case at the time the court
 34 considers the report.

35 ~~If the defendant is not represented by an attorney, the court,~~
 36 ~~upon ordering the probation report, shall also order the probation~~
 37 ~~officer who prepares the report to discuss its contents with the~~
 38 ~~defendant.~~

39 SEC. 11. Section 1203.10 of the Penal Code is repealed.

~~1203.10.— At the time of the plea or verdict of guilty of any person over 18 years of age, the probation officer of the county of the jurisdiction of said criminal shall, when so directed by the court, inquire into the antecedents, character, history, family environment, and offense of such person, and must report the same to the court and file his report in writing in the records of such court. When directed, his report shall contain his recommendation for or against the release for such person on probation. If any such person shall be released on probation and committed to the care of the probation officer, such officer shall keep a complete and accurate record in suitable books or other form in writing of the history of the case in court, and of the name of the probation officer, and his act in connection with said case; also the age, sex, nativity, residence, education, habit of temperance, whether married or single, and the conduct, employment and occupation, and parents' occupation, and condition of such person committed to his care during the term of such probation and the result of such probation. Such record of such probation officer shall be and constitute a part of the records of the court, and shall at all times be open to the inspection of the court or of any person appointed by the court for that purpose, as well as of all magistrates, and the chief of police, or other heads of the police, unless otherwise ordered by the court. Said books of records shall be furnished for the use of said probation officer of said county, and shall be paid for out of the county treasury.~~

~~Five years after termination of probation in any case subject to this section, the probation officer may destroy any records and papers in his possession relating to such case.~~

SEC. 12. Section 1203.12 of the Penal Code is repealed.

~~1203.12.— The probation officer shall furnish to each person who has been released on probation, and committed to his care, a written statement of the terms and conditions of his probation unless such a statement has been furnished by the court, and shall report to the court, or judge, releasing such person on probation, any violation or breach of the terms and conditions imposed by such court on the person placed in his care.~~

SEC. 13. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant

1 to Part 7 (commencing with Section 17500) of Division 4 of Title
2 2 of the Government Code. If the statewide cost of the claim for
3 reimbursement does not exceed one million dollars (\$1,000,000),
4 reimbursement shall be made from the State Mandates Claims
5 Fund.

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